

## Message Text

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21

ACTION NEA-09

INFO OCT-01 ISO-00 EB-07 TRSE-00 AID-05 OPIC-03 XMB-02

FRB-03 PM-03 NSC-05 SP-02 SS-15 CIAE-00 INR-07

NSAE-00 SAB-01 SAM-01 /064 W  
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R 160943Z APR 75

FM AMEMBASSY MUSCAT

TO SECSTATE WASHDC 1073

INFO AMEMBASSY NEW DELHI

USDOC WASHDC

AMEMBASSY ISLAMABAD

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E.O. 11652: N/A

TAGS: ECON, EINV, MU

SUBJECT: OMAN GOVERNMENTS ACTS AGAINST LONG-ESTABLISHED  
FOREIGN MERCHANTS

REF: A. MUSCAT A-31, 5/29/74 (NOTAL)

B. MUSCAT A-40 7/9/74 (NOTAL)

C. MUSCAT 461 (NOTAL)

1. MINISTER OF COMMERCE AND INDUSTRY HAS DECIDED TO DENY  
ARTICLE 14 EXEMPTION FROM OMAN'S FOREIGN BUSINESS AND  
INVESTMENT LAW TO FOREIGN-OWNED BUSINESSES ESTABLISHED BEFORE  
JANUARY 1, 1970, THUS FORCING THEM INTO PARTNERSHIP WITH  
OMANI CITIZENS. HE CLAIMS THESE BUSINESSES FAILED TO  
COMPLY WITH ARTICLE 14 OF LAW, WHICH REQUIRES THAT THEY  
REPORT THEIR ACTIVITIES TO GOVERNMENT AND TAKE OMANI PARTNERS  
IN ANY INCREASE IN CAPITALIZATION UNDERTAKEN AFTER EFFECTIVE  
DATE OF LAW (FEB. 16, 1974). WITH EXCEPTION OF A FEW  
PAKISTANIS AND POSSIBLY LEBANESE, NEARLY ALL COMPANIES AFFECTED  
ARE OWNED BY INDIANS. MOST ARE SMALL RETAIL SHOPS, BUT  
AMONG THEM ARE SOME OF LARGEST (AND BEST ORGANIZED) TRADING  
COMPANIES IN OMAN, ESPECIALLY KHIMJI RAMDAS, RAMNIKLAL KOTHARY  
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AND MUSTAFFA JAWAD TRADING CO. DECISION DOES NOT RPT NOT

AFFECT FOREIGN CONTRACTORS WORKING FOR GOVERNMENT (EXEMPTED UNDER ARTICLE 6).

2. MINISTER'S RULING NATURALLY DOES NOT ADDRESS QUESTION OF FINDING OMANI PARTNERS. THERE IS VERY LITTLE OMANI CAPITAL AVAILABLE FOR BUYING INTO THESE BUSINESSES, AND WE DOUBT BANKS WILLING TO LEND FOR THIS PURPOSE UNDER PRESENT ECONOMIC CONDITIONS (REFTEL C). MORE IMPORTANTLY, OMANIS MIGHT PERCEIVE THAT, WITH MINISTER'S RULING, IT WON'T BE NECESSARY TO PUT UP ANY CAPITAL TO ACQUIRE THEIR SHARE. AFFECTED FOREIGN MERCHANTS IN MOST CASES WILL BE FORCED TO LOAN PROSPECTIVE PARTNERS THE CAPITAL SHARE REQUIRED BY LAW, PRESUMABLY SUBSEQUENTLY TO BE PAID OUT OF OMANI SHARE OF PROFITS. IN EFFECT, FOREIGN BUSINESSES WOULD THUS BE BUYING THEMSELVES OUT IN LONG RUN AND REDUCING PROFITS IN INTERIM. INDIAN

AMBASSADOR, HOWEVER, STATED IN CONFIDENCE HE DOES NOT EXPECT FIRMS WILL BE COMPENSATED AT ALL. OMANIS CAN BARGAIN FOR STIFF TERMS, PARTICULARLY IF THEY HAVE POLITICAL CLOUT TO ATTRACT GOVERNMENT BUSINESS.

3. WE WOULD GUESS THAT FAILURE OF THESE COMPANIES TO COMPLY WITH PROVISIONS OF ARTICLE 14, IF ALLEGATIONS TRUE, WAS DELIBERATE CALCULATED RISK SINCE LAW CARRIES NO SPECIFIC PENALTY FOR NONCOMPLIANCE, AND BY REPORTING ACTIVITIES FIRMS RISKED SUBJECTION TO WIDELY IGNORED INCOME TAX LAW. WE DOUBT ASSERTION BY COMMERCE UNDERSECRETARY RE UNIVERSAL NONCOMPLIANCE. IT IS POSSIBLE SOME MERCHANTS SIMPLY DIDN'T KNOW ABOUT REGISTRATION REQUIREMENTS.

4. COMPANIES HAVE UNTIL APPROXIMATELY MAY 1 TO COMPLY WITH MINISTER'S RULING ON OMANI PARTICIPATION (ARTICLE 3). ARTICLE 12 SANCTIONS FOR NONCOMPLIANCE ARE: OMANGOV CAN REFUSE AUTHORIZATION TO DO BUSINESS OR (MORE LIKELY) DEEM GOVERNMENT OF OMAN TO BE OWNER OF REQUISITE SHARES. SECOND POSSIBILITY ADDITIONALLY CARRIES PROVISIO THAT MINISTER OF COMMERCE CAN REQUEST ACCOUNTING AND PAYMENT OF PROFIT SHARE FOR ENTIRE PERIOD COMPANY OPERATING UNLAWFULLY. IT IS NOT INCONCEIVABLE THIS CLAUSE WOULD BE INTERPRETED TO MEAN EFFECTIVE DATE OF FOREIGN INVESTMENT LAW.  
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5. EMBASSY NOT AWARE OF ANY PLAN TO APPEAL MINISTER'S RULING. SUCH APPEAL WOULD HAVE TO BE TO COUNCIL OF MINISTERS--WHICH MAY HAVE APPROVED MINISTER'S DECISION IN ADVANCE.  
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## Message Attributes

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